

Appl. No. 09/914,966
Atty. Docket No. 7456R
Amendment Dated December 7, 2005
Reply to Office Action Dated September 16, 2005
Customer No. 27752

REMARKS

Claims 11-18 and 20-32 have been cancelled.

New Claims 33-52 have been added to define the claimed invention with greater clarity and/or specificity. Support for the new claims is found throughout the Specification and in the Claims, as originally filed.

Claims 33-52 are pending. No additional claims fee is believed to be due.

Rejections Under §103:

Claims 11-13, 15-18 and 20-32 are rejected by the Examiner under 35 U.S.C. §103 as allegedly defining obvious subject matter over U.S. Patent No. 4,243,480 to Hernandez et al. ("Hernandez"). The Examiner asserts that Hernandez teaches starch fibers having a diameter of 10-500 microns that are made via a solvent spinning process (not melt blowing and/or spunbonding). Hernandez teaches that water-insoluble synthetic polymers may be incorporated into the starch fiber. Col. 9, lines 31-34.

Applicants respectfully submit that this rejection is now moot in light of the cancellation of Claims 11-13, 15-18 and 20-32.

Claim 14 is rejected by the Examiner under 35 U.S.C. §103 as allegedly defining obvious subject matter over Hernandez in view of U.S. Patent No. 5,516,815 to Buehler et al. ("Buehler").

Applicants respectfully submit that this rejection is now moot in light of the cancellation of Claim 14.

In order to expedite the prosecution of the claimed invention as claimed in new Claims 33-52, Applicants submit that new Claims 33-52 are not anticipated by nor rendered obvious over Hernandez alone or in combination with Buehler for the following reasons.

First, Applicants respectfully submit that Hernandez fails to teach each and every element of new Claim 33 and 52 (the independent claims) because Hernandez fails to teach a fiber comprising starch, wherein the fiber has an average fiber diameter of less than 10 μm . The Examiner and Applicants are in agreement that Hernandez only teaches solvent spun fibers, more particularly, solvent spun fibers obtained via precipitation of a colloidal dispersion of starch into a coagulating salt solution. Hernandez, Col. 2, lines 24-32; Col. 3, lines 58-64.

Applicants respectfully submit that Hernandez only teaches making one diameter of starch fiber; namely, a fiber having an average fiber diameter of 65 μm . Hernandez, Col 12, lines 39-49. Nowhere does Hernandez even attempt to teach making a starch fiber having an

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average fiber diameter of 10 μm – Applicants submit that Hernandez does this because it was not feasible/possible to make starch fibers having an average fiber diameter of 10 μm using the solvent spinning process. At the very most, Hernandez merely mentions that “the only requirement [of its fibers] being that the waterinsensitive [sic] fibers have a diameter of 10 to 500 microns.” Hernandez, Col. 3, lines 59-61. Hernandez never explicitly teaches or enables one of ordinary skill in the art how to make a starch fiber having a fiber diameter of less than 10 μm using its solvent spinning process. In light of the foregoing, at the very most, Hernandez’s brief mentioning of “requirements” of its fibers merely suggests to one of ordinary skill in the art to try making a fiber having a fiber diameter of 10 microns. As is well settled in Patent Law, “obvious to try” is not the standard for obviousness under §103.

Applicants further submit that the flexibility properties of a 65 μm diameter fiber comprising starch are significantly different than the flexibility properties of a less than 10 μm diameter fiber comprising starch. The difference is analogous to the difference between the flexibility properties of a steel beam and the flexibility properties of a steel wire.

Accordingly, Applicants submit that Hernandez provides no reasonable expectation of success that a fiber having a fiber diameter of 10 microns can be made by its solvent spinning process.

As additional support for the fact that the claimed invention claimed in new Claims 33 and 52 is not anticipated by nor rendered obvious over Hernandez, alone or in combination with Buehler, is shown in the attached Declaration by Larry Neil Mackey, a co-inventor of the claimed invention.

Conclusion


In light of the above amendments and remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of new Claims 33-52 is respectfully requested.

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Respectfully submitted,

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